

REMARKS

The Examiner has rejected Claims 1-23 under 35 U.S.C. 102(a) as being anticipated by Deri et al., "Practical Network Security: Experiences with ntop", TERENA Networking Conference 22-25 May 2000. Applicant's invention was completed in the United States at a date prior to May 2000, the effective date of the Deri reference that was cited by the Examiner. A declaration and evidence of such are submitted herewith.

In particular, the declaration and evidence together clearly show that, at a date prior to May 2000, the invention was conceived of as being capable of processing network accounting information by receiving accounting information over a packet-switched network, monitoring at least one aspect of the received accounting information, and discarding at least a portion of the accounting information based on the monitored aspect. Moreover, such invention was further conceived of as being capable of processing network accounting information by receiving accounting information over a packet-switched network, monitoring at least one aspect of the received accounting information, and conditionally preventing an overload of the accounting information based on the monitored aspect. Still yet, the invention was further conceived of as being capable of processing network accounting information by receiving accounting information over a packet-switched network, receiving an indication relating to at least one aspect of the received accounting information, and conditionally preventing an overload of the accounting information based on the indication; as well as various other features embodied in the claims and specification of the above patent application.

In view of such declaration and evidence, the foregoing rejections of at least the independent claims are deemed to have been overcome. By virtue of the dependence of the remaining claims, such remaining claims are also deemed allowable.

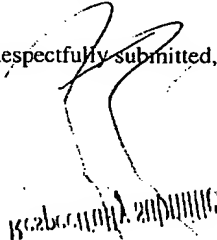
A notice of allowance is respectfully requested.

Attorney Docket XACTP001

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overpayment to Deposit Account No. 50-1351 (Order No. XACTP001).

Respectfully submitted,


Respectfully submitted,

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is hereby authorized to charge any fees that may be due or credit any overpayment to Deposit Account No. 50-1351 (Order No. XACTP001).

Respectfully submitted,

Kevin J. Zilka
Registration No. 41,429

P.O. Box 721120
San Jose, CA 95172-1120
408-505-5100

JAN. 31. 2003 3:45PM

40897149904 XACCT TECHNOLOGIES

NO. 9841 P. 1

Practitioner's Docket No. XACTP001

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Givoly

Application No.: 09/924,391

Group No.: 2155

Filed: 08/07/01

Examiner: Tran, Philip B.

For: SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT FOR PROCESSING
NETWORK ACCOUNTING INFORMATION

Assistant Commissioner for Patents

Washington, D.C. 20231

DECLARATION OF PRIOR INVENTION IN THE UNITED STATES
OR IN A NAFTA OR WTO MEMBER COUNTRY
TO OVERCOME CITED PATENT OR PUBLICATION (37 C.F.R. section 1.131)

PURPOSE OF DECLARATION

1. This declaration is to establish completion of the invention in this application in the United States, at a date prior to May 2000, that is the effective date of the prior art article (Deri et al., "Practical Network Security: Experiences with ntop", TERENA Networking Conference 22-25 May 2000) that was cited by the examiner.
2. The person making this declaration is an inventor, Tal Givoly.

FACTS AND DOCUMENTARY EVIDENCE

3. To establish the date of completion of the invention of this application, the following attached exhibit and statement are submitted as evidence:

CERTIFICATION UNDER 37 C.F.R. ' ' 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

_ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington D.C. 20231
37 C.F.R. § 1.8(a) 37 C.F.R. § 1.10*

_ with sufficient postage as first class mail.

as "Express Mail Post Office to Addressee"
Mailing Label No. (mandatory)

TRANSMISSION

X facsimile transmitted to the Patent and Trademark Office, (703) 746-7239

Date:

2/4/2003

Signature

ERICA L. FARLOW
(type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome Cited Patent or Publication—
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JAN. 31. 2003 3:45PM

40897149904 XACCT TECHNOLOGIES

NO. 9841 P. 2

EXHIBIT A – A memorandum dated at least as early as August 17, 1999 showing that the invention set forth in the above patent application was conceived at least in part by me at least as early as May 2000.

STATEMENT: I, Tal Givoly, hereby state that the invention in the above application was conceived at least in part by me at least as early as May 2000, as evidenced by EXHIBIT A. Such invention was conceived of as being capable of processing network accounting information by receiving accounting information over a packet-switched network, monitoring at least one aspect of the received accounting information, and discarding at least a portion of the accounting information based on the monitored aspect. Moreover, such invention was further conceived of as being capable of processing network accounting information by receiving accounting information over a packet-switched network, monitoring at least one aspect of the received accounting information, and conditionally preventing an overload of the accounting information based on the monitored aspect. Still yet, the invention was further conceived of as being capable of processing network accounting information by receiving accounting information over a packet-switched network, receiving an indication relating to at least one aspect of the received accounting information, and conditionally preventing an overload of the accounting information based on the indication; as well as various other features embodied in the claims and specification of the above patent application.

From this exhibit and statement, it is clear that the invention in this application was conceived of at least as early as May 2000.

DILIGENCE

4. It is hereby declared that applicants acted diligently from a time just prior to the effective date of the citation of the Deri Article, up to reduction to practice or the filing of the above application.

TIME OF PRESENTATION OF THE DECLARATION

5. This declaration is submitted prior to final rejection.

DECLARATION

6. As a person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

Inventor's signature:

Tal Givoly

Date: 1/31/03

Country of Citizenship:

ISRAEL

Residence:

7524 Holkundery Pl
Cupertino, CA 95014 USA

Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome Cited Patent or Publication—
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